**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH**
**AT HYDERABAD**

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE S.ANANDA REDDY**

**WRIT PETITION NO : 13345 of 2005**

Between:

M/s. Sri Lakshmi Constructions Company,
Plot No.80/B, Vinay Nagar Colony,
Saidabad, Hyderabad
rep. its Managing partner- Sri B. Srinivas.

..... PETITIONER

AND

1 Government of A.P., rep. by its Prl., Secretary,
Transport, R & B ( R&B) Dept.,
A.P. Secretariat, Hyderabad.
2 The Chief Engineer, R & B ( Roads), Erramanzil, Hyderabad.
3 the Superintending Engineer, R&B Circle, Kurnool.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ, order or direction more in the nature of a writ of Mandamus by declaring the action of the 1st respondent in not paying compensation for the loss sustained by the petitioner due to flash floods in river Thungabhadra while the construction of High Level Bridge was in progress, in spite of recommendation of the 2nd and 3rd respondents in accordance with clause 50 of the A.P Departmental Standard Specifications, as arbitrary, illegal, discriminatory offending article 14 of the constitution of India and consequently direct the respondents to release the compensation with interest at the rate of 24% on the amount recommended by the 2nd and 3rd respondents and to pass such other order or further orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.K.G.K.PRASAD

Counsel for the Respondent Nos.1to3: GP FOR ROADS & BUILDINGS

**The Court at the stage of admission made the following ORDER:**

This writ petition is filed by the petitioner praying for issuance of Writ of *Mandamus* declaring the action of the first respondent in not paying compensation for the loss sustained by it due to flash floods in river Thungabhadra while the construction of High Level Bridge was in progress, in spite of recommendation of the second and third respondents in accordance with Clause 50 of the Andhra Pradesh Departmental Standard Specifications, as arbitrary, illegal and discriminatory offending Article 14 of the Constitution of India and for a consequential direction to the first respondent to release compensation with interest at the rate of 24% on the amount recommended by the second and third respondents.

2. It is stated that the petitioner was entrusted with the work of construction of High Level Bridge over Thungabhadra. As a successful bidder, while it was executing the said work, it is alleged that certain loss had occurred to the work in progress due to flash floods. It is further stated that the loss was estimated by the respondents Nos. 2 and 3 and they recommended the same to the first respondent. Therefore, the first respondent is obligated to pass orders awarding compensation. As no orders are passed by the first respondent, the petitioner is constrained to approach this Court by filing the present writ petition.

3. At the time of hearing, the learned counsel for the petitioner stated that on 12.08.1999 the third respondent addressed a letter to the Engineer in Chief (R &B) Roads, Erramanzil, Hyderabad, estimating the approximate loss about Rs.5,00,000/-. However, subsequently, the Engineer in Chief (R & B) Roads, Hyderabad, by his letter dated 10.03.2000 made another estimation to the loss caused, which he had arrived at Rs.14,70,000/- and he recommended to the first respondent to reimburse the said amount to the petitioner. According to the petitioner, though the said letters were addressed to the first respondent, the first respondent did not pass any orders. It is also stated that under similar circumstances, where another contractor had suffered loss, the first respondent passed orders in the year 1997 under G.O.Rt.No.242, dated 29.03.1997, awarding certain compensation. Therefore, the learned counsel contended that the petitioner is also entitled to similar treatment, as it is also suffered loss. Therefore, sought for direction.

4. Heard the learned counsel for the petitioner and the learned Government Pleader for Roads & Buildings.

5. *Prima facie*, this Court is inclined to hold that the writ petition is not maintainable

since the petitioner is claiming compensation on account of certain loss, which it had suffered, may be due to flash floods at the place where it was executing the work entrusted by the respondents. If any loss had occurred on account of certain unforeseen circumstances, and if any recommendations have been made by the concerned officers that is for the first respondent to consider the same. If the first respondent comes to the conclusion that the petitioner is entitled to any compensation, it is for the first respondent to pay such compensation, but the petitioner cannot invoke the jurisdiction under Article 226 of the Constitution of India seeking for issuance of Writ of *Mandamus* against the first respondent for awarding compensation. If the petitioner is aggrieved against the inaction of the respondents, the petitioner has got appropriate remedy, where it can adduce evidence to prove its claim that it had suffered loss due to flash floods. Whether the petitioner had suffered loss or not, and if suffered to what extent, this factual aspect cannot be decided in the present writ petition. Further, the subject matter of the writ petition relates to terms of contract entered into by the petitioner and the respondents. Therefore, the writ petition is not maintainable.

6. Under the above circumstances, the writ petition is dismissed at the admission stage. No order as to costs.

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S. Ananda Reddy, J

Date: 22.06.2005

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To

1 The Prl., Secretary, Government of A.P.,
Transport, R & B ( R&B) Dept.,
A.P. Secretariat, Hyderabad.
2 The Chief Engineer, R & B ( Roads), Erramanzil, Hyderabad.
3 The Superintending Engineer, R&B Circle, Kurnool.

4 Two CCs to G.P. for Roads & Buildings, High Court Buildings, Hyderabad.

5 2 CD copies.